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C O N F I D E N T I A L KINSHASA 001866

SIPDIS

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TAGS: [EMIN](#) [ETRD](#) [ECON](#) [CG](#)

SUBJECT: MINISTER OF PLAN AND PHELPS-DODGE MINING PROJECT

Classified By: Econoff Peter Newman for reasons 1.4 b/d

11. (C) Ambassador and econoff met with Minister of Plan Alexis Thambwe on September 27 for an introductory meeting and to discuss Phelps-Dodge's mining project at Tenke Fungurume. Thambwe told the Ambassador that he was committed to getting the project off the ground and was asking the government to impose an agreement on Gecamines, the copper/cobalt mining parastatal. The Ambassador thanked Thambwe for his interest in the case and emphasized the importance of closing this deal that has been in the works for several years. As a major US company and a leader in the field of copper mining, Phelps-Dodge is well positioned to relaunch mining activity in Katanga and act as a success story that will encourage other companies to consider investing in this mineral rich country.

12. (C) Thambwe gave the Ambassador a copy of a Sept 24 letter which he submitted to Vice President Bemba, head of the Economic and Financial Commission. The key points of the letter were that Gecamines' share of the joint venture would be reduced from 45 percent to 15 percent in exchange for the venture being subject to the tax code. The 15 percent would be the 10 percent that PD was offering plus the 5 percent that the mining code reserves to the government ceded to Gecamines. He also included an up-front total payment of USD 100 million (Note. This does take into account USD 50 million already paid by Lundin in 1996/97. Phelps-Dodge would only be responsible for the remaining USD 50 million. End Note.) with a negotiable payment schedule. He is clearly frustrated with Gecamines' stalling, and Thambwe accuses them of changing position without good reason. He asks that the Vice President recommend to the President that Gecamines be forced to agree as it is 100 percent owned by the Congolese state.

13. (C) Thambwe's language regarding Gecamines was very blunt and made clear that neither he nor others in the government approved of Gecamines' position or recent threats. These threats included requesting the reduction of the Tenke Fungurume concession, launch a new open tender for the project, and to go to international arbitration to resolve the payment of the original fees - which reach a total of USD 250 million - in the original mining convention. Thambwe wrote:

Begin Translation:

The leaders of Gecamines, politically supported and manipulated, multiply the hindrances as you can note in reading their notes in the annex.

My point of view, expressed in a clear manner, is that the Government can settle this dossier in little time if the political will to push this project to completion is real. The current procrastination around this dossier does not profit either our country or Katanga.

In my opinion, it is indispensable to bring this project to completion by imposing a point of view on Gecamines, which in the present context, is perfectly incapable of re-launching this project.

End Translation.

14. (C) Phelps-Dodge previously agreed to a maximum lump-sum payment of USD 100 million over a duration reaching the first production of copper from the project, but not earlier as it would distort project financing and the internal rate of return. Phelps-Dodge asked to retain a tax exemption (on a tax of 15 percent over dividends) present in the initial Lundin-Gecamines Mining Convention of 1996 to compensate for lost profit due to the USD 100 million lump-sum payment.

15. (C) Comment. Thambwe's willingness to push this project forward is a good thing for both the American firm and the economy of Katanga. It is not certain that both sides will reach a quick agreement on the lump-sum payment due to Phelps-Dodge's previous request for tax relief in compensation. Gecamines is the largest employer in Katanga and was at one time an important foreign currency earner. As the GDRC pushes Gecamines to compromise, they must be careful not to appear to disregard the rights of the company or they may face popular opposition to the project when it finally gets started. End comment.

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